

Applicants: Zhou et al.
Serial No.: 10/721,376
Filing Date: November 25, 2003
Docket No.: VIM-003

REMARKS

Reconsideration and allowance are respectfully requested.

Before entry of this amendment, claims 1-10 were pending. In the Office Action, claims 1-6 were allowed, claims 8-10 were objected to, and claim 7 was rejected. In the present amendment, claims 1 and 8 are amended, claim 7 is cancelled and claims 11-15 are added. After entry of the amendment, claims 1-6 and 7-15 are pending.

I. Information Disclosure Statement

Applicants submitted an Information Disclosure Statement (IDS) and form PTO-1449 along with the application as originally filed. The form PTO-1449 lists eight non-patent literature publications. The IDS states "Copies of the documents listed on the first page of the form PTO-1449 are not submitted because those documents were cited in a prior application (10/235,628) which is relied upon for an earlier filing date under 35 U.S.C. §120."

The Examiner states that the IDS filed on 11/25/03 fails to comply with 37 CFR 1.98(a)(2), which the Examiner states requires a legible copy to be submitted of each non-patent publication. Therefore, the Examiner states that the non-patent publications have not been considered.

The Examiner is asked to consider the eight non-patent publications because the IDS filed along with the original application complied with 37 CFR 1.98. An exception to 37 CFR 1.98(a)(2) is provided in 37 CFR 1.98(d), which states:

"(d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

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(1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and

(2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section" [37 CFR 1.98(d)] (emphasis added).

The IDS submitted with the originally filed application complies with section 1.98(d)(1) because the prior application (10/235,628) is properly identified and is relied upon in paragraph [0002] of the specification for an earlier filing date under 35 U.S.C. §120. The IDS submitted with the application complies with section 1.98(d)(2) because the IDS submitted in the parent case complied with paragraphs (a) through (c) of section 1.98.

For the Examiner's convenience, the eight non-patent publications that were submitted as references AG-AO in the parent case are being re-submitted along with this Amendment. The Examiner is asked to consider the eight non-patent publications that were considered in the parent case.

II. Claims 8-10

Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. (Office Action, p. 3, lines 3-5.) Applicants amend these claims to include all of the limitations of the base claim 7 and any intervening claims. Withdrawal of the objection to claims 8-10 is respectfully requested.

III. Claim 7

Claim 7 is rejected under 35 U.S.C. § 102(b) as being anticipated by Dougall et al. (USP 5,019,903) (Office Action, p. 2, lines 15-16). Claim 7 is canceled to overcome this rejection.

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IV. New claims 11-15

Applicants are adding new claims 11-15, each of which is supported by the specification and allowable over the cited references. No new matter is added. Claims 11-12 depend directly from claim 1 and are allowable for at least the same reasons for which claim 1 is allowable. Claims 13-15 depend directly or indirectly from claim 8 and are allowable for at least the same reasons for which claim 8 is allowable.

V. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that the entire application (claims 1-6 and 8-15 are pending) is in condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case. The undersigned can be contacted at (925) 621-2121 to discuss any aspect of this application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By 
Darien K. Wallace

Date of Deposit: October 2, 2006

Respectfully submitted,



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